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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,704	06/07/2001	James S. Mrozinski	55870US002	9401

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Office of Intellectual Property Counsel
3M Innovative Properties Company
PO Box 33427
St. Paul, MN 55133-3427

EXAMINER

TRAN, SUSAN T

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 09/24/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/876,704

Applicant(s)

MROZINSKI ET AL.

Examiner

Susan Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45-61 is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: ____

DETAILED ACTION

Receipt is acknowledged of applicant's Declaration and Fee filed 09/27/01, and Information Disclosure Statement filed 08/22/01.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 2, 10, 25 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the term "filmlike" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "filmlike"), thereby rendering the scope of the claim unascertainable. See MPEP § 2173.05(d).

Claim 10 recites the limitation "the additional film forming polymer" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. Claim 1 does not recite the limitation "additional film forming polymer".

Claims 25 and 29 are indefinite for failing to further limit the subject matter of claim 1. Claim recites the transparency of less than 65%, claims 25 and 29 do not further limit "less than 65%". Applicant is required to cancel the claims, or amend the claims to place them in proper dependent form, or rewrite the claims in independent form.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-11, 13-24, 25, 27-33, 37, 38, and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. WO 99/29220.

Kondo teaches oil absorbing sheet comprising porous plastic film sheet, e.g., polypropylene, polyethylene, polybutylene, ethylene-propylene block copolymer, or poly-4-methylpentene; and coating, including about 20-60% fillers, e.g., mineral oils, and other additives (pages 4, and 6-7). The porous film sheet has interstitial volume in the range of 0.0001-0.005 cm³, void content in the range of 5-50%, the thickness in the range of 5-200µm, and oil absorption per unit of up to 3.78 mg/cm² (pages 5, 8, and 14-22). Other additives in the coating include surface- active agent and hydrophilic polymer, e.g., polyvinyl alcohol, and polyethylene glycol; and wherein the coating can be on a single or both surfaces of the film (pages 9-11). Kondo does not specifically teach the transparency of less than 65 percent. However, Kondo teaches excellent transparency, notable transparency enabling easy confirmation of oil absorption (page 8 and examples). Accordingly, absent showing evidence on the contrary, the transparency taught by Kondo is at least the same as the claimed transparency. Therefore, it would have been *prima facie* obvious for one of ordinary skill in the art to, by routine experimentation obtain the claimed invention because Kondo recognizes the

same results desired by the applicant, *e.g.*, excellent absorption of the skin oil, notable transparency, suitable to absorb large amount of sweat and skin oil on the face (page 1).

Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al., and Sugiyama et al. US 4,643,939.

Kondo is silent as to the teaching of oil absorbing sheet made of paper material.

Sugiyama teaches oil-absorbing tissue made of plant fiber, or mixture of plant fiber and synthetic resin fiber (column 2, lines 30-38). The sheet is coated with additives, such as salicylic acid (column 2, lines 39-68). Thus, it would have been obvious for one of ordinary skill in the art to modify Kondo's oil-absorbing sheet with the plant fiber in view of Sugiyama with the expectation of at least similar result, because the references teach the advantageous results in the use of oil-absorbing sheet. The expected result would be oil-absorbing sheet having excellent absorption of the skin oil, and notable transparency to enable easy confirmation of oil absorption and toughness.

Claims 12 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al.

Kondo is silent as to the teaching of polyolefin microfiber or salicylic acid. However, it is the position of the examiner that polyolefin is of the same polymer group as polypropylene, and therefore, it would have been obvious for one of ordinary skill in the art to, by routine experimentation select a suitable thermoplastic film and a suitable organic acid with the expectation of at least similar result, because Kondo teaches

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thermoplastic film material including polypropylene microfiber; filler, such as organic and inorganic acid.

Claims 34-36, 39, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al.

Kondo is silent as to the teaching of the average pore size and the "Hand" of the sheet. However, absent showing evidence on the contrary, it is the position of the examiner that the oil absorbing sheet taught by Kondo would have at least similar pore size and "Hand" weight as the claimed pore size, because, Kondo uses the same thermoplastic film having the same physical properties, e.g., void volume, interstitial volume, and thickness.

Claims Allowable

Claims 45-61 are allowed.

Pertinent Arts

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Braun, Dulog et al., Chen et al., and Mrozinski et al. are cited as being of interest for the teaching of absorbent article.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Tran whose telephone number is (703) 306-

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5816. The examiner can normally be reached on Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600